

Adjustment Assistance Program Payment Application. The application must be submitted to the FSA county office serving the county where the sheep and lamb operation is located but, in any case, must be received by the FSA county office by the close of business on August 15, 2001, if applying for Year 2 benefits, by the close of business on August 15, 2002, if applying for Year 3 benefits, and by the close of business August 15, 2003, if applying for Year 4 benefits. The certification section of the application must be completed prior to submission. Applications not received by the respective deadlines will be rejected and returned.

(b) The sheep and lamb operation requesting benefits under this part must certify to the accuracy of the information provided in their application for benefits. All information provided is subject to verification by FSA. Refusal to allow any agency of the Department of Agriculture to verify any information provided will result in rejection of the application or an obligation to return payments. Data furnished by the applicant will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be approved. Providing a false certification to the Government is punishable by imprisonment, fines and other penalties.

§ 784.8 Year 2, Year 3, Year 4 eligibility.

(a) Subject to the availability of funds, Year 2, Year 3, and Year 4 payments will, as described to in § 784.1, be made for eligible marketings of slaughter lambs. Payments for slaughter lambs can be received by an operation at the rates described in § 784.9 for those eligible lambs slaughtered in Year 2, Year 3, and Year 4 if the lambs were owned continuously for 30 days prior to the marketing for slaughter and if the carcass produced meets the criteria set out in paragraph (b) of this section. Other criteria, as set out in this part, may also apply as a condition for, or limitation on, payment. See paragraphs (d) and (g) of this section for feeder lamb and purchased or retained ewe lamb payment eligibility.

(b) In order for a marketing of a slaughter lamb to qualify for payment under paragraph (a) of this section, the carcass produced by the slaughter must meet and be certified by an AMS agent to meet the following criteria:

(1) Meet the requirements of USDA Quality Grade Choice or Prime for lamb carcasses;

(2) Meet the requirements of USDA Yield Grade 2;

(3) Have a muscling confirmation score of "Average Choice" or better; and

(4) Have a 55-75 pound dressed hot carcass weight.

(c) Slaughter facilities that process less than 50 market lambs per week on a yearly basis can request approval from AMS to certify the slaughter lamb carcass requirements according to paragraph (b) of this section. To obtain approval from AMS, the slaughter facility must submit a written request for AMS approval to the address provided by FSA.

(d) Eligible slaughter lambs commingled on a pooled load for transport to a slaughter facility must complete the applicable information on the LMAAP application form. Producers with lambs on these pooled loads can receive a pro-rata portion of payment for eligible slaughter lambs that meet the criteria for payment according to paragraph (b) of this section. The LMAAP application must accompany lambs to the slaughter facility and be presented to the USDA grader for certification. The seller must comply with all other FSA guidelines to be eligible for such benefits for this program.

(e) Subject to the availability of funds, sheep and lamb operations may be eligible for the Year 2, Year 3, and Year 4 feeder lamb payments, as specified in § 784.9, if:

(1) The operation had gross sales of no more than \$2.5 million in the year preceding the year for which payment is requested; and

(2) The feeder lambs sold were owned by the operation from birth to the time of marketing and, when marketed, were certified by AMS, as thick-muscled and large-framed.

(f) An eligible sheep and lamb operation can self-certify to the eligibility

criteria described in paragraph (e) of this section, if they do the following:

(1) Certify to the number of feeder lambs that meet the criteria in paragraph (e)(2);

(2) Maintain identification with the farm or ranch of origin of the feeder lambs for a 24-hour viewing period to allow AMS agents or their assigned representatives an opportunity to verify qualifying feeder lambs;

(3) Complete and fax page 4 of the LMAAP application to a number provided by FSA or AMS at least 2 work-days prior to a 24-hour period when lambs can be viewed for verification, providing on the form the location and contact person for USDA verification purposes;

(4) Submit an LMAAP Application for payment;

(5) Submit supporting documentation to the local county office to prove that page 4 of the LMAAP application was completed and faxed according to paragraph (f)(3) of this section.

(g) Sheep and lamb operations that elect not to self-certify according to paragraph (f) of this section, can self-certify to the eligibility criteria described in paragraph (e) of this section when lambs lose ownership identification by doing the following:

(1) Provide unique identification for all marketed lambs by:

(i) Requesting program ear tags in writing from USDA (the address is available at any local FSA office); or

(ii) Uniquely identifying or tagging each qualifying self-certified feeder lamb that meets the eligibility requirements clearly described in paragraph (e)(2) of this section before transferring ownership. Alternative methods of identification may be used such as other unique ear tags or paint brands;

(2) Complete and fax page 4 of the LMAAP application to a number provided by FSA including the location of the lambs for 30 days after FAX notification and the type of animal identification;

(3) Submit LMAAP Application to the local county office for payment; and

(4) Submit supporting documentation to the local county office to prove that page 4 of the LMAAP application was

completed and faxed according to paragraph (g)(2).

(5) Applicable FSA program forms, office addresses, and fax number information is available on the internet at www.sc.egov.usda.gov.

(h) In order for an eligible sheep and lamb operation to receive a ewe lamb incentive payment, the producer must certify that the ewe lamb, at the time of certification is:

(1) Not older than 18 months of age;

(2) Has not produced an offspring;

(3) Does not possess the following characteristics:

(i) Parrot mouth; or

(ii) foot rot.

(i) In addition, to qualify for ewe lamb incentive payment, the sheep and lamb operation must:

(1) Certify that it will maintain the qualifying ewe lambs in the herd for at least one complete offspring lambing cycle and actually maintain the lambs for that period in accord with that certification.

(2) Upon request by an AMS agent, agree to allow the AMS agent to verify that the ewe lambs meet qualifying characteristics. These qualifying characteristics *inter alia*, must be certified by an AMS agent as equal or superior to those required for lamb incentive payments, as described in paragraphs (b) and (e) of this section.

(3) Maintain documentation of any death loss of qualifying ewe lambs.

(4) Agree to refund any payments made with respect to any ewe lamb which has died before completing the full program requirements where said deaths for the operation exceed 10 percent per program year.

(5) Be in compliance with all requirements relating to Scrapie, as described in 9 CFR part 79; and

(j) To be eligible for any payments addressed under this section, sheep and lamb operation must be engaged in the business of producing and marketing agricultural products at the time of filing the application.

(k) In addition, to be eligible for Year 2, Year 3, and Year 4 payments, a sheep and lamb operation must submit a timely application during the application period for Year 2, Year 3, and Year 4 benefits and comply with all other terms and conditions of this part or

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which are contained in the application to be eligible for such benefits.

§ 784.9 Year 2, Year 3, and Year 4 rate of payment and limitations on funding.

Subject to the availability of funds, and the proration rules set out in § 784.10, Year 2, Year 3, and Year 4 payments may be made to sheep and lamb operations at the following rates:

- (a) \$3 for each qualifying feeder lamb; plus
- (b) \$5 for each qualifying slaughter lamb marketed in any covered month except for June or July of the applicable program year, and
- (c) \$8 for each qualifying slaughter lamb marketed in June or July of the applicable program year.
- (d) \$18 for each qualifying ewe lamb retained or purchased for breeding purposes for Year 3 and Year 4 only.

§ 784.10 Availability of funds for Year 1 through Year 4.

(a) Total payments under this part, unless otherwise determined by the FSA, cannot exceed \$67.7 million. At the close of Year 3, FSA will determine if the remaining available funds will be sufficient for program Year 4. In the event that funds should be insufficient to complete the expected payments to eligible producers during program Year 4, then the payment rates for that program year shall be prorated by a national factor so as to reduce the expected payments to be made to the amount available and payment shall be made at those rates until monies are expended. Payments made during a prorated program year shall be made first-come, first-served so long as there are monies available in the manner set for in these regulations. Payments for preceding years will not be affected.

(b) A national factor shall be determined, if necessary for slaughter lamb and feeder lamb payments based on the factoring of the remaining available funds at the conclusion of Year 3 divided by the average number of slaughter and feeder lambs that qualified for benefits during Year 2 and Year 3.

(c) Of the \$67.7 million of total funds under this part, \$26 million is specifically earmarked for the ewe lamb incentive payments, with a target of \$13

million per year for Year 3 and Year 4. Those monies (\$26 million) should be used only for the ewe incentive payments and no other funds shall be used for those payments. A national factor shall be determined, if necessary for ewe lamb payments based on the factoring of the remaining available funds at the conclusion of Year 3 divided by the number of ewe lambs that qualified for ewe lamb payments during Year 3.

(d) In the event that approval of all eligible applications would result in expenditures in excess of the amount available, FSA shall reduce the national factor in such manner as FSA, in its sole discretion, finds fair and reasonable.

§ 784.11 Appeals.

Any sheep and lamb operation which is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at parts 11 and 780 of this title or otherwise applicable.

§ 784.12 Misrepresentation and scheme or device.

(a) A person or operation shall be ineligible to receive assistance under this program if it is determined by FSA to have:

- (1) Adopted any scheme or device which tends to defeat the purpose of this program;
- (2) Made any fraudulent representation; or
- (3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to any person or operation engaged in a misrepresentation, scheme, or device, shall be refunded with interest together with such other sums as may become due. Any sheep and lamb operation or person engaged in acts prohibited by this section and any sheep and lamb operation or person receiving payment under this part shall be jointly and severally liable with other persons or operations involved in such claim for benefits for any refund due under this part and for related charges. The remedies provided in this part shall be in addition to other civil,